THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.4542 of 1998

Dated: 25-07-2005

Between:

Jaggaiahpet Nagar Panchayat,
represented by its Commissioner,
Jaggaiahpet, Krishna District. Petitioner…

And

The Presiding Officer,

Labour Court, Guntur and another. Respondents…

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ORDER:

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This writ petition is filed by the Jaggaiahpet Nagar Panchayat, represented by its Commissioner, Jaggaiahpet, Krishna District, being aggrieved by the award dated 31-10-1997 in I.D.No.24 of 1997 passed by the 1st respondent-Presiding Officer, Labour Court, Guntur,

It is the case of the petitioner that the 2nd respondent-workman, who worked in the petitioner's Nagar Panchayat as N.M.R. on daily wage basis and also on

leave vacancy temporarily. Therefore, the allegation of the 2nd respondent that his services were dispensed with without any notice is liable to be rejected.

The 2nd respondent and 14 others approached the Administrative Tribunal by filing O.As. for a direction to the Municipal Council to appoint as Badili Workers in the existing posts. The Tribunal directed the Municipal Council to select Badili Workers with less than 5 years experience if the candidates having 5 years experience or above are not available. The selection and appointments will be only in accordance with the rules. The Panel Committee vide Resolution No.3, dated 20-02-1992, selected

15 candidates to the then existing vacant posts and issued appointment orders vide orders dated 20-02-1992 and the

2nd respondent is also a person selected in that list.

These appointments were made when the ban on recruitments and appointments was in force. The Special Commissioner and Director of Municipal Administration, recommended for cancellation of Resolution No.3, dated 20-02-1992, against which the Chairman approached this Court by filing a writ petition No.3441 of 1992, questioning the said recommendation. Thus, it is clear that the 2nd respondent worked only on daily wage basis and temporarily in leave vacancy, which does not confer any right for his continuance. Therefore, the award passed by the Labour Court is arbitrary and illegal. Hence, this writ petition.

A detailed counter affidavit is filed on behalf of the

2nd respondent denying the allegations made by the petitioner and supporting the award passed by the Labour Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also perused the award passed by the Labour Court and other material made available on record.

At the out set, I am of the opinion that the Labour Court has not committed any error in passing the award for termination of the workman as illegal and contrary to Section 25F of the Industrial Disputes Act, but, nonetheless, the Labour Court erred

in awarding full backwages as the workman was out of service from the date of his removal till filing of the industrial dispute. The workman was removed from service on 28-02-1991, but he raised industrial dispute in the year 1997 with a delay of almost six years. This fact was not taken into consideration by the Labour Court while awarding backwages. Since the workman has approached the Labour Court with a delay of more than six years, the petitioner management cannot be mulcted with the liability of full backwages for the said period. It is an admitted case that no notice was given before terminating the workman from the services of the petitioner. The workman admittedly worked for more than 240 days preceding the date of his termination, therefore, the Labour Court rightly found the termination of the Workman in violation of Section 25F of the Industrial Disputes Act. In those circumstances, the award passed by the Labour Court is liable to be modified.

In the result, I hold that the removal of the 2nd respondent-workman from the services of the petitioner (Jaggaiahpet Nagar Panchayat) is illegal and in violation of Section 25F of the Act and the petitioner is directed to reinstate him into service with continuity of service but without any backwages till his reinstatement. However, he is entitled for continuity of service and other attendant benefits.

The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V. RAMULU, J

Dated: 25-07-2005

LSK